Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
Implementation of Section 304 of the Telecommunications Act of 1996	)	**CS Docket No. 97-80**
Commercial Availability of Navigation Devices	)	
Compatibility Between Cable Systems and Consumer Electronics Equipment	)	**PP Docket No. 00-67**

REPLY COMMENTS OF AT&T INC.

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AT&T Inc. ("AT&T") respectfully submits these reply comments in the above referenced docket.[1/]

Summary and Introduction

The Commission has been grappling for years with the development of a bi-directional standard for cable – one that will encourage the transition to digital cable and support the commercial availability of set top boxes (STBs) for digital cable systems required under Section 629 of the Act. As the record in this proceeding decisively shows, the concerns at issue in that context, and the competing proposed standards on which the Commission solicited comments, are relevant only to digital cable systems (i.e., those employing QAM modulation). Accordingly, the rules under consideration in this proceeding should not be extended to IPTV services. The two sets of proposed standards discussed in the *Notice* are cable-specific, as the cable and

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1/ Third Further Notice of Proposed Rulemaking, *Implementation of Section 304 of the Telecommunications Act of 1996*, FCC 07-120 (rel. June 29, 2007) (the "Notice").

consumer electronics industries concede; they are inapplicable to the systems of other MVPDs, which were not involved in their development. Moreover, while an all MVPD-standard that works with digital cable and other systems like IPTV might be achievable by the industry in the long run, there is no basis or need for the FCC to impose one under its Section 629 authority.

Nor does the record demonstrate any reason that the Commission should intervene in the ongoing private standard-setting process for IPTV. IPTV does not raise the same concerns as traditional cable. For example, AT&T's IPTV service has been a digital, bi-directional service since day one, relying on network-based security that is segregated from the STB as the Commission's integration ban requires. And – as the record reflects – there is no reason to believe that IPTV and the consumer electronics industry will become mired in the same protracted debate that marked the traditional cable process. To the contrary, the IPTV and consumer electronics industry already are engaged in discussions concerning retail availability, without the need for Commission oversight. As newcomers to the market, IPTV providers have every incentive to develop their services and equipment in a manner most attractive to consumers – which includes support for commercially available, competitively priced equipment.

While the Commission may believe that the impasse in developing a bi-directional digital cable standard merits regulatory intervention, such intervention in the case of IPTV would be counterproductive and contrary to the public interest. IPTV services are emerging and the technology and equipment still evolving. The Commission should not insert itself into the process and interfere with such developments. As Congress itself warned in drafting Section 629, the Commission should "avoid actions which could have the effect of freezing or chilling

the development of new technologies and services."[2/] That policy is reinforced by Section 706 of the Act, which specifically mandates deregulatory approaches for broadband services such as IPTV.[3/] And leaving IPTV services free to find their own path to a common standard, rather than loading them down at this early stage with cumbersome technical specifications or regulatory mandates, will help encourage the "development . . . of a new and improved multichannel video programming or other service" – a core value recognized by the drafters of the Cable Act.[4/] In short, there is no reason in the case of IPTV services for the Commission to depart from its general presumption in favor of leaving standard-setting to industry bodies,[5/] and every reason for the Commission to re-commit to that approach with respect to these new services.

Finally, the Commission should make clear that Section 629 is concerned with the commercial availability of navigation devices, and not regulating the look and feel of MVPDs' video service. The statute thus cannot be construed to require MVPDs to share metadata in order to support manufacturers' efforts to provide competitive user interfaces and other services. Section 629 is designed to support retail availability of navigation devices (e.g., STBs) – not the competing *services* that various manufacturers may seek to offer via their equipment. The Commission should not – and lawfully cannot – expand the mandate of Section 629 to impose this new competitive constraint and regulatory requirement on MVPDs.

2/ Report and Order, *Implementation of Section 304 of the Telecommunications Act of 1996,* 13 FCC Rcd 14775 ¶¶ 16 & n. 23, 132 (1998) ("*First Report and Order*"), *quoting* S. Rep. No. 104-230 at 181 (1996) (Conf. Rep.).

3/ 47 U.S.C. § 157 note (a).

4/ *Id.* § 549(c).

5/ *See, e.g., First Report and Order* ¶ 72.

I. THERE IS NO DISPUTE THAT THE TWO SETS OF PROPOSED STANDARDS ON WHICH THE COMMISSION HAS SOUGHT COMMENT ARE CABLE-SPECIFIC AND CANNOT BE EXTENDED TO IPTV AND OTHER MVPDS.

The comments in this proceeding leave no doubt as to one central point: The Commission should squarely reject the notion that the bi-directional cable standards under review in the *Notice* should – or even could – be applied to non-cable MVPDs. As the comments make abundantly clear, the protracted dispute and dueling standards before the Commission relate exclusively and specifically to traditional cable systems. They are inapplicable to the technologies used by IPTV providers and other MVPDs and reflect no input from such providers. In other words, in answer to the Commission's question in the *Notice,* any rules the Commission adopts in this proceeding should be confined to "digital cable systems."

As AT&T explained in its opening comments, the proposed NCTA and CEA standards that are under consideration in the *Notice* are applicable specifically (and only) to digital cable systems using QAM modulation. There is no dispute on this issue: the CEA standard uses as its starting place the technical specifications underlying CableCard[6/] – itself a standard that was developed for the legacy cable industry with no input from other MVPDs. And the NCTA standard, as Verizon explains, not only "relies heavily on incumbent cable technology" but was "designed and developed to work for one type of provider using a particular type of technology: . . . . legacy coaxial or hybrid fiber/coaxial."[7/]

Because the CEA and NCTA standards were "developed primarily, if not exclusively, for applications to QAM-based video delivery architectures," they are, as Qwest notes, "not well-

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6/ *See e.g.,* Sony Electronics Inc. Comments ("Sony Comments) at 17 (noting that CEA standard builds off CableCARD). (All references to "Comments" throughout refer to Comments filed on or about August 24, 2007 in response to the *Notice*.)

7/ *See* Verizon Comments at 8, 9.

suited to alternative video-delivery technologies."[8/] For example, Verizon contends that OCAP cannot work with pure IP over fiber systems (and even with Verizon's system, which is IP over fiber only for the return, upstream path), because, Verizon asserts, OCAP requires the use of DOCSIS for upstream communications, which in turn requires the use of coaxial cable or hybrid fiber/coaxial. To implement OCAP, therefore, fiber-based IPTV systems would need to install expensive "retrograde" equipment.[9/] DIRECTV points out that "every aspect of a DIRECTV navigation device differs from a cable navigation device[,]" and notes that the two could not "easily be harmonized" without fullscale revision of DIRECTV's software.[10/] And Microsoft notes that imposing the traditional cable standards on IPTV – even if otherwise practicable – would stifle the digital rights management "innovation and flexibility" that IPTV systems can offer since they can build DRM directly into their network technology.[11/]

This disconnect is hardly surprising. As AT&T previously explained, NCTA's OCAP middleware was developed by CableLabs – in Verizon's words, an "exclusionary body beholden to incumbent [cable] providers" that "has every incentive to develop a standard that works only with the technology used by its members."[12/] No other MVPD (including IPTV or DBS providers) had a voice in CableLabs' process. As DIRECTV explains, the negotiations leading up to the OCAP standard took place exclusively "between the cable and consumer electronics industries," and specifically excluded other competitors.[13/] CableLabs itself concedes that its

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8/ *See, e.g.,* Qwest Communications International Comments ("Qwest Comments") at 5.

9/ *See* Verizon Comments at 9.

10/ DIRECTV, Inc. Comments ("DIRECTV Comments") at 7-9.

11/ *See* Microsoft Corporation Comments ("Mircrosoft Comments") at 9-10.

12/ Verizon Comments at 9.

13/ DIRECTV Comments at 4.

members are purely traditional cable companies, and do not include "direct broadcast satellite (DBS), telephone companies delivering video services . . . . or the like."[14/] The consumer electronics industry has also raised concerns about the limited opportunity for input in the development of the OCAP standard: Sony, for example, notes that the standard is "subject to the unilateral control by the cable industry," which thus has "unfettered power" to "[m]ake unilateral revisions to it" without input from "CE manufacturers, consumers, or other parties whose rights, duties, and interests are directly impacted."[15/] And as AT&T noted in its opening comments, the same was true of the existing, underlying unidirectional standard.[16/]

Perhaps recognizing all this, neither NCTA nor its members advocate that the Commission apply either proposed standard to alternative MVPDs like IPTV providers. Indeed, while NCTA supports an "all MVPD" approach (discussed in part II below), it never suggests that its proposed standard provides the path toward that goal. To the contrary, NCTA admits outright that its approach "will not provide consumers with a product that is fully portable among the many MVPD providers available today."[17/] And Time Warner, which urges that the Commission adopt "comparable obligations" for alternative MVPDs, never suggests that the Commission impose *OCAP* for that purpose.[18/] Similarly, while CEA likewise contends that the *potential* exists for "enhancing navigation device availability for MVPD services other than

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14/ *See e.g.,* "CableLabs Member Companies" at http://www.cablelabs.com/about/companies; *see also* Verizon Comments at 11.

15/ Sony Comments at 18.

16/ AT&T Inc. Comments ("AT&T Comments") at 6; and *see e.g.,* Comments of Ameritech New Media, Inc. on Petitions for Reconsideration at 10 (Sept. 23, 1998); Order on Reconsideration, *Implementation of Section 304 of the Telecommunications Act of 1996*, 14 FCC Rcd 7596, 7615 ¶ 39 n.112 (1999) (citing contentions of Ameritech and WCA); Comments and Opposition of BellSouth Entertainment, LLC at 3-4 (Feb. 13, 2004).

17/ National Cable & Telecommunications Association Comments ("NCTA Comments") at 72-73.

18/ *See* Time Warner Cable Inc. Comments ("Time Warner Comments") at 7.

cable[,]" it does not suggest that its standard under consideration in the Notice constitutes the answer. To the contrary, CEA concedes that the solution has yet to be developed.[19/]

In short, the *cable*-focused standards at issue in the *Notice* are relevant only for the incumbent cable industry. They are ill-suited for IPTV, and imposing them on the IPTV industry without any input or participation by IPTV providers would be both technically infeasible and fundamentally unfair.

II. THE COMMENTS ALSO CONFIRM THAT THERE IS PRESENTLY NO BASIS FOR EXPANDING THIS PROCEEDING EITHER TO MOVE TO AN ALL-MVPD SET OF STANDARDS, OR TO IMPOSE A STANDARD OR REGULATORY MANDATE ON THE NASCENT IPTV TECHNOLOGY.

The cable industry argues that the Commission cannot simply adopt cable-specific rules, as it would then be guilty of a "myopic focus" and an overly "cable-centric regulatory approach."[20/] Indeed, Time Warner and others suggest that Section 629 *requires* identical regulation of cable and non-cable MVPDs.[21/] It is not clear if the cable industry is suggesting that the same standards must apply to cable and other MVPDs, or simply that the Commission cannot adopt rules for cable without adopting rules for other MVPDs – but in either case, the argument is wrong both as a matter of law and in light of the very different and already promising course that the nascent IPTV industry has adopted.

Nothing in the language of Section 629 – or in Section 624A, also cited by NCTA – supports a mandate to treat all MVPDs the same. To be sure, Section 629 requires the

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19/ Consumer Electronics Association Comments ("CEA Comments") at 13, 15.

20/ Time Warner Comments at 3, 7.

21/ Comments of NCTA at 3 ("Congress warned the Commission that . . . it must not . . . treat MVPDs differently"); Comments of Time Warner at 8-16. Comcast notes only that the Commission "may wish to support" development of an all-MVPD two-way solution. Comments of Comcast Corporation ("Comcast Comments") at 3. *See also id.* at 14 & n.30 (citing NCTA comments). And Time Warner vaguely urges the Commission to "oversee" such development, or "create a record that supports" it. Comments of Time Warner at 10, 40.

Commission to assure commercial availability of navigational devices used in connection with the systems of all MVPDs. But it also permits the agency the flexibility to accomplish that goal in different ways where different circumstances make that approach a reasonable one. The D.C. Circuit has already rejected the cable industry's argument to the contrary, i.e, that the Commission "arbitrarily applied different decisional criteria" to cable and DBS under Section 629.[22/] That decision was consistent with the well established principle of administrative law that agencies may (indeed must) treat different regulatory situations differently.

Such differences abound here. To begin with, there are real-world, practical solutions available for two-way cable STBs at this point in time – but, as noted above, those standards do not work with other MVPD systems. As Microsoft emphasizes, there are "fundamental architectural differences" among MVPD networks that "must be taken into account when setting rules for achieving the goals of Section 629."[23/] And while the cable industry insists that the Commission should hold off on adopting any rules until an all-MVPD system has been devised,[24/] no such solution exists. While the *Notice* references a June 2007 ex parte filing by NCTA suggesting that there "has been exploration of an enhanced security device for all MVPDs that would permit a retail device to interoperate with all MVPD networks, whether traditional cable, satellite or telephone,"[25/] neither AT&T nor any other party seems to know of any such "exploration."[26/]

22/ *Charter Communications, Inc. v. FCC,* 460 F.3d 31, 42 (D.C. Cir. 2006).

23/ Comments of Microsoft at 2, 7-10.

24/ *See, e.g.,* Time Warner Comments at 8-18.

25/ *Notice* ¶ 13.

26/ *See* Intel Corporation Comments at 6 (". . . there are not enough details to make specific comments on" such a solution); DIRECTV Comments at 5, 11 (as far as it is aware, ". . . no such device exists").

Indeed, NCTA itself provides no clue on the subject of its own prior ex parte filing, even in response to the question posed by the *Notice* about it. All it now says is that such a device "can and should be encouraged and facilitated by the Commission," and that the cable industry is "ready and willing to cooperate" in a solution if one can be designed to avoid causing "massive disruption of MVPD services."[27/] Notably, NCTA does not suggest that any such solution is imminent. In fact, NCTA acknowledges that cable is evolving in many cases toward a "switched video" model[28/] – a transition that would delay an all-MVPD solution even further, making it a moving target.

In fact, most parties describe such a solution as a long-term ideal.[29/] While Verizon and CEA tout the ATIS process[30/] as perhaps working toward a solution, that process is actually focused on devising a cable card solution suited specifically for Verizon's system, which is a hybrid QAM-down/IP-up system very different from AT&T's and others' fully two-way interactive pure IP approach.[31/] This ATIS effort, as currently structured, could not form the basis for an *all*-MVPD solution. And DIRECTV notes that, if it were possible at all, it would take considerable time and effort to design a device that could also accommodate *DBS* services,

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27/ NCTA Comments at 73, 74.

28/ *Id.* at 32-34.

29/ For example, EchoStar notes that while such a device would likely be possible "from an engineering perspective, the ability to seamlessly work with and adapt to distinct cable, IPTV, and satellite services would be a challenge." Comments of EchoStar Satellite L.L.C. at 6.

30/ Comments of Verizon at 6-8; CEA Comments at 15.

31/ *See* Verizon Comments at 6 (referring to an IP "return path"); Comments of ATIS at 4-5. The mission statement for ATIS' IPTV incubator states that it will pursue two objectives: (1) an enhancement of the existing CableCard specification to enable IP flows that are agnostic to the network technology of the service/network provider, and (2) a common target platform for a downloadable security functionality that eliminates the need for the physical device. To date, ATIS has focused primarily on the first objective.

given profound differences in the underlying technologies and systems.[32/] Finally, CEA acknowledges that an all-MVPD solution – even one using CEA's standard as a starting place – could not be developed "on the same schedule on which the core implementations [for cable] . . . may be achieved."[33/]

In short, while an all-MVPD solution might be achievable by the industry in the long run, there is no realistic prospect for a concrete all-MVPD solution in the foreseeable future, and there accordingly is no basis at this time for the Commission to impose one.[34/] And by the same token, there is no fully formulated IPTV-only solution. Not one commenter suggests otherwise: as just discussed, the only solution even discussed in the context of IPTV systems is the current ATIS work effort, and this is most definitely *not* designed for pure IPTV systems. ATIS may eventually establish a path forward to pursue an agreed-upon true all-MVPD solution. But, in the interim, as noted above, discussions between the IPTV and consumer electronics industries are well underway, and an agreed-upon standard might very well emerge regardless of the work being conducted at ATIS. As CEA noted, the "potential exists" for such a solution.[35/] But – in contrast to the mature process with respect to digital cable – it is much too early to point to a specific answer.

32/ Comments of DIRECTV at 5-6.

33/ Comments of CEA at 13.

34/ The Commission should, however, reiterate its requirement that negotiations toward such a standard reflect an open, neutral effort conducted under the auspices of a duly accredited standards organization – not one dominated by the cable industry (or any other group). *See* AT&T Comments at 7 n.12.

35/ CEA Comments at 13.

Nor is there any basis, with respect to IPTV services, to depart from the Commission's strong presumption that these marketplace negotiations will achieve retail availability.[36/] First, whatever the case may be with the state of the bi-directional negotiations between the cable and consumer electronics industries, the IPTV providers are already in the process of pursuing both home networking and generic standards solutions with CEA, and they have already agreed on a framework of principles for approaching those negotiations – one that (in contrast to the approach with respect to digital cable systems) enjoys widespread participation from a host of different industries.[37/] Second, IPTV networks are already inherently digital and two-way, and (at least in the case of AT&T's U-verse architecture) do not rely on the set top box for their conditional access functions. Third, Microsoft has developed a downloadable signal security solution, to be used with AT&T's U-verse video service, consistent with the integration ban and the retail availability goals of Section 629.[38/] Fourth, Microsoft is currently developing its OAK (OEM Application Kit) solution to allow third party vendors to build devices that can interact with AT&T's U-verse video service. And as Microsoft's comments confirm,[39/] the OAK solution is already defined and in actual development, and Microsoft is committed to bringing it to market as an off the shelf product. And – unlike the various CableLabs initiatives – this is an independent initiative by Microsoft, though one that AT&T supports. All of this also

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36/ *See* AT&T Comments at 2, 3 n.3, 13 n.24, 14 & nn.25, 27. *See also* Comments of the Motion Picuter Association of America, Inc. *et al.* at 5 (endorsing Section 629 solution through "the marketplace – without government intervention").

37/ As noted in AT&T's opening comments (at 11), there are over 60 participants in this process. Attachment B to those comments was intended to be a list of those participants, but was in error. The correct list is included as an attachment to these reply comments.

38/ Second Report and Order, *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, 20 FCC Rcd 6794, 6812 ¶ 35 (2005). *See also* Memorandum and Order, *Application for Reivew of Comcast Corp.*, FCC 07-127, at ¶ 4 & n.20 (rel. Sept. 4, 2007).

39/ Comments of Microsoft Corp. at 12-13.

demonstrates that there is absolutely no merit to allegations by the cable industry that AT&T and other IPTV providers have disregarded the integration ban.[40/] Indeed, the IPTV approach may actually *better* capture the spirit and goal of Section 629 than some of the cable efforts.

Finally, as Qwest, AT&T, and Microsoft have noted, loading up emerging, nascent IPTV services with government-imposed requirements rather than permitting these promising marketplace developments to unfold would stifle innovation and dictate technological solutions before the service and technology have had a chance to blossom.[41/] Given the lack of any demonstrated necessity for such government intervention, Section 629 counsels in favor of "evaluat[ing] how the efforts to comply with these mandates progres[s]," and "avoid[ing] actions which could have the effect of freezing or chilling the development of [such] new technologies and services."[42/]

In sum, it is perfectly lawful and indeed appropriate as a matter of policy for the Commission to retain the "cable-centric" focus of this proceeding. The Commission cannot now adopt an all-MVPD or an IPTV standard: wishing cannot make it so. And there is neither a need nor any justification for injecting regulatory mandates and oversight into the early-stage technological and marketplace development of emerging IPTV services.

III. SECTION 629 DOES NOT REQUIRE MVPD SUPPORT FOR MANUFACTURERS' COMPETING USER INTERFACE SERVICES.

Sony, the Home Networking Alliance, and others assert that any rules the Commission adopts must make clear that MVPDs must offer navigation data and metadata that competitive

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40/ *See* Comcast Comments at 19. *See also* Time Warner Comments at 4.

41/ Qwest Comments at 5-6; Microsoft Comments at 8-11; AT&T Comments, *passim*.

42/ *First Report and Order* ¶¶ 16 & n.23, 132, *quoting* S. Rep. No. 104-230, at 181 (1996) (Conf. Rep.).

providers would need to offer their own user interfaces.[43/] There is no basis under Section 629 for such a requirement. The goal of Section 629 is the commercial availability of *equipment*– not the loss of control over the look and feel of the MVPD's video service. Specifically, Section 629 authorizes rules designed "to assure the commercial availability . . . . of *converter boxes*, interactive communications *equipment*, and other *equipment* used by consumers to access multichannel video programming and other services . . . ."[44/] Manufacturers are of course free to offer user interface products in connection with their competitive equipment. But – as Time Warner and NCTA also argue[45/] – manufacturers may not look to Section 629 as a basis for mandating that MVPDs support such ventures by feeding metadata to the manufacturer and disaggregating the video service from the MVPD's user interface – measures that have nothing to do with supporting the retail availability of their *equipment*.

To be sure, there might very well be circumstances in which it will be to all parties' advantage for a MVPD to share metadata with a manufacturer. For example, AT&T is committed to supporting home networking, and sharing data may be necessary to allow for unimpeded transmission of the MVPD service across all devices in the home network, and this very issue is under discussion between AT&T and CEA. But providers must have the right to ensure that such data is used in a manner that maintains the integrity of a video provider's service. The user interface is a critical component of that package and the consumer's overall experience, and it is an element as to which MVPDs vigorously compete. Section 629 does not

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43/ *See, e.g.* Sony Comments at 20, Joint Comments of the Home Networking Proponents at 13.

44/ 47 U.S.C. § 549 (a) (emphases added).

45/ TimeWarner Comments at 37; NCTA Comments at 67-68. As NCTA points out, the Commission has stated that "[i]t is not our intent to force cable operators to develop and deploy new products and services in tandem with consumer electronics manufacturers. Cable operators are free to innovate and introduce new products and services without regard to whether consumer electronics manufacturers are positioned to deploy substantially similar products and services." NCTA Comments at 68 (quoting *Second R&O*, 20 FCC Rcd at 6809, ¶ 30).

authorize the Commission to overhaul that service model and restrict MVPDs to providing nothing more than a stream of disaggregated content that can be repackaged by anyone. Indeed, this would be unlawful for a host of reasons: it not only exceeds the Commission's authority under Section 629, but also extends well beyond the Commission's authority to regulate consumer electronics equipment only where reasonably ancillary to its authority over MVPDs' transmission services.[46/] It also would ignore the message Congress sent the Commission in the Eshoo amendment to section 624A, a related context in which it directed the Commission not to use rules designed to address the compatibility of equipment to "affect features, functions, protocols, and other product and service options" offered by the MVPD.[47/]

Finally, a requirement that MVPDs share their metadata with competitors – apparently without any compensation – would raise serious constitutional challenges. To begin with, precluding MVPDs from presenting their content only with their own selected "look and feel" – rather than one selected by a manufacturer – would interfere with their right to control the manner and content of their own speech, in violation of the First Amendment, *see Miami Herald Publ'g Co. v. Tornillo*, 418 U.S. 241, 256 (1974), and would amount to a compelled subsidy from MVPDs for the speech of equipment manufacturers, *see e.g., United States v. United Foods, Inc.,* 533 U.S. 405 (2001); *Keller v. State Bar of Cal.,* 496 U.S. 1 (1990). That problem would be aggravated here by the likelihood of subscriber confusion about the source of such speech. *Cf. Turner Broadcasting System, Inc. v.* FCC, 512 U.S. 622, 655-56 (1994) (views of beneficiary of access to cable system would not "likely be identified with those of the owner"). Time Warner also argues that the rule would create disincentives to disseminate content, because

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46/ *See American Library Ass'n v. FCC,* 406 F.3d 689 (D.C. Cir. 2005).

47/ 47 U.S.C. § 544a(c)(2)(D).

once MVPDs are forced to share their "output technologies and content protection" with manufacturers, or worse, to modify those technologies to accommodate manufacturers' interests, there is a risk that some content would end up insufficiently protected.[48/]

The proposed rule also would raise serious Fifth Amendment issues. As the Supreme Court has recognized, companies have a protected property interest in their intellectual property and other intangible data, and in their right to exclude others from accessing such data; a mandate suddenly requiring MVPDs to share their proprietary data to support manufacturers' service initiatives would constitute an uncompensated taking. *See Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1002-1014 (1984). Time Warner further contends that the rule would effect a physical taking without compensation to the extent it required MVPDs to provide a software upgrade path on their systems for use by their competitors.[49/] As the courts have made clear, statutes should be construed to avoid raising such "substantial constitutional questions." *Bell Atlantic Telephone Companies v. FCC,* 24 F.3d 1441, 1445 (D.C. Cir. 1994).

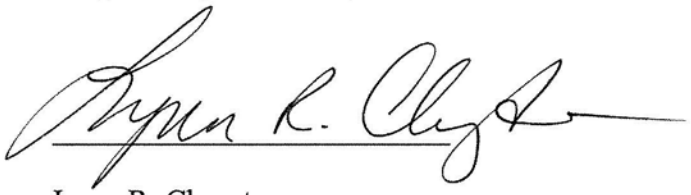
48/ *See* Time Warner Comments at 39; *see also* NCTA Comments at 70-71.

49/ Time Warner Comments at 40.

CONCLUSION

The record clearly establishes that the standards and rules at issue in this proceeding are, and should remain, cable-specific. IPTV providers and other competitive MVPDs have different systems that not only are incompatible with the proposed cable standards, but in fact already more closely track the goals of Section 629. And the IPTV and consumer electronics industries are already engaged in productive discussions. For all these reasons, the Commission should decline to insert itself into the IPTV standard-setting process.

Respectfully submitted,



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ATTACHMENT A

Annex G – OCC Membership

1. 1394 Trade Association
2. ABC
3. AT&T
4. AV Connections
5. Avinta Communications
6. BellSouth
7. Cable Television Labs
8. Canon
9. Charter Cable Advanced Engineering
10. Comcast Cable
11. Constantine Cannon
12. Cyberlynx - Gateway
13. Dell
14. Digital Video Broadcasting (DVB)
15. DirecTV Inc.
16. Dolby Laboratories
17. EchoStar Technologies
18. Elliot Technologies
19. Foundation for Multimedia Communications
20. Hewlett-Packard
21. Hitachi
22. Intel
23. Interactive Homes
24. ISAN International Agency
25. ITVN
26. JVC
27. Lawrence Berkeley Labs
28. LSI Logic
29. Marvell
30. Microsoft
31. Mitsubishi
32. Motion Picture Association of America (MPAA)
33. Motorola
34. National Association of Broadcasters
35. National Cable Telecommunications Association
36. NBC
37. NDS Americas
38. NetStreams
39. NHK Enterprises
40. Nielsen Media Research
41. Nippon Telegraph & Telephone (NTT)
42. Norpak
43. Panasonic
44. Philips
45. Pioneer
46. Quantum Data
47. Samsung
48. Sanyo
49. Sarnoff
50. SBC
51. Scientific-Atlanta
52. SES Americom
53. Sharp
54. Society of Cable Telecommunications Engineers (SCTE)
55. Sony
56. Southwestern Communications Group
57. Tandberg Television
58. Telcordia
59. Texas Instruments
60. Time Warner Cable
61. Toshiba
62. Triveni Digital
63. TTE
64. TV Guide On Screen
65. US Digital TV (USDTV)
66. Verizon
67. Vidiom Systems
68. WGBH National Center for Accessible Media (NCAM)
69. Widevine Technologies
70. WJR Consulting